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Bermuda

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I. General

1. Bermuda[1] is located in the western part of the Atlantic Ocean about 917 kilometres east of Cape Hatteras on the North Carolina coast of the United States of America. It is named after the Spanish navigator, Juan de Bermudez, who first discovered it in 1503 and mapped the islands. In 1612, when it was known as the Somers Isles in commemoration of Bermuda's British founder father and colonizer, Admiral Sir George Somers, who had landed there in 1609, the Bermudians were in the third charter of the Virginia Company. The charter was revoked in 1684 and Bermuda became a British crown colony.

2. The Territory has a total area of 53.35 square kilometres and consists of 8 major islands and 130 smaller islands.[2] They are at latitude 32.19 degrees north and longitude 64.46 degrees west,[3] extending from north-east to south-west along the edge of what is assumed to be an extinct, submarine volcano. Many of the islands are connected and rise above sea level to an average height of 30 metres and a maximum elevation of 86 metres. The terrain is generally hilly, with fertile depressions and some marshy areas. The largest island is Great Island, or Main Island. It is about 22.5 kilometres long and 3.2 kilometres wide. It covers an area of about 3,650 hectares, consisting mostly of a fertile, shallow valley. Boaz, Ireland, Somerset, St. David's and St. George's are the next five major islands. Hamilton, the capital, and St. George's are the two main towns. Bermuda is the oldest, and one of the smallest, yet most populated of the remaining British Overseas Territories, and the oldest member of the British Commonwealth of Nations.[3]

3. According to 1998 estimates,[2] Bermuda's population of 60,075 at the time of the last census has grown to 62,378, of which 61 per cent are of African descent and 39 per cent of North American or European descent. A high number, 15,823, or 26.7 per cent of the total, were born outside Bermuda.

4. The Territory remains very densely populated (1,119 inhabitants per sq km), having grown at an annual average of 0.77 per cent between 1980 and 1991. The next census, scheduled for 2000,[4] is expected to reveal a faster growth rate during the 1990s. English is the language in Bermuda and its currency, the Bermuda dollar, is pegged at par to the United States dollar.

II. Constitutional and political developments

A. General

5. Bermuda is administered by the United Kingdom of Great Britain and Northern Ireland and is its oldest remaining colony. Queen Elizabeth II is the Head of State. Governors are appointed by the Queen and the Government of the United Kingdom, after consultations with the Premier of Bermuda. In June 1997, the Queen appointed John Thorold Masefield as the Governor of Bermuda.

6. The Constitution of Bermuda, adopted in June 1968 and amended in 1973, 1979 and 1989, contains provisions relating to the protection of fundamental rights and freedoms of the individual. It provides for the powers and duties of the Governor and the composition, powers and procedures of the legislature, the executive, the judiciary and the public service. The United Kingdom retains responsibility for defence, external affairs and internal security.

7. Bermuda has a parliamentary system of government. The Government of Bermuda comprises a Governor, a Deputy Governor, a Cabinet and a bicameral Legislature with a House of Assembly of 40 directly elected members and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Premier, three on the advice of the leader of the opposition and three by the Governor at his discretion. The 40-member House of Assembly is directly elected for a maximum term of five years. The House is 379 years old and only the legislative assemblies of the United Kingdom and of Iceland are said to pre-date it.

8. The Governor is responsible for defence, external affairs, internal security and the police. He delegates some responsibilities in these areas to the territorial Government. In exercising his reserved powers, the Governor is required to consult with the Governor's Council, of which he is Chairman, and of which the Premier and two or three Cabinet ministers, nominated by the Premier, are members. The Premier, currently Jennifer Smith of the Progressive Labour Party (PLP), and her Cabinet, through the Legislature, have full responsibility for the Government, except where restricted by the Governor's reserved powers. The Secretary of the Cabinet, appointed by the Governor in

accordance with a recommendation by the Premier, heads the public service and also acts as Secretary to the Governor's Council.

9. As a crown colony, Bermuda has no independent international relations at the political level. It maintains a 700-strong Defence Regiment; the male adult population is subject to military conscription, involving three years' part-time liability for weekly drills and an annual camp. It has a police force of approximately 450 full-time officers and several hundred part-time police reserves. The Regiment helps the Bermuda Police maintain law and order over the 21 square miles of territory.

10. It is estimated that the Government of Bermuda employs more than 14 per cent of Bermuda's entire working population. It has 9 appointed parish councils, 2 elected municipal corporations and 108 government boards. It also pays the salary of the Governor.

11. Bermuda's law and legal system are based on English common law and principles of equity, English statute law in force since 1612 and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government and its members are not elected but appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal, which sits only at certain times of the year.[5]

B. Political parties and elections

12. There are three political parties in the Territory: the Progressive Labour Party (PLP), which was the first party to be formed in Bermuda in 1963 to gain representation and power in a white-controlled political and economic system; the United Bermuda Party (UBP), formed in 1964 by whites opposed to PLP policies; and the National Liberal Party (NLP), which seeks a middle ground. The Premier is chosen from the majority party and heads a cabinet of no more than 14 members of the legislature.

13. Bermuda voters in the general and other elections or referendums must be over 18 years of age. They are either Bermudian by birth or status, or non-Bermudian, long-term residents of Bermuda for decades who are citizens of the British Commonwealth of Nations and were registered and qualified to vote since 1979, and who have remained residents since then and have registered annually to vote. Automatic citizenship applies to all children born in Bermuda, except to those born in Bermuda without either parent being Bermudian by birth or status at the time. In November 1998, there were about 37,000 registered voters, that is, about 58 per cent of Bermuda's total current population. Until 1998, voters were required to register each year. That requirement has since been lifted.[3]

14. In the last general election in Bermuda, held on 9 November 1998, PLP, led by Jennifer Smith, won a majority of 12 seats in the territorial legislature, defeating UBP and taking power for the first time in the 35 years since the party system began in 1968. The next election is due by October 2003.[6]

15. Since winning the election, PLP has been consolidating power, instituting programmes to increase black representation in management positions and discouraging employment of non-Bermudians, as well as the issuance of work permits.

16. Following a review of the civil service conducted by experts from the United Kingdom Civil Service College, a draft report, released in January 2000, recommended that the Civil Service be reformed. In April 2000, the Premier shuffled her Cabinet, halved the number of Ministers and strengthened the Cabinet Office.

III. Activities related to the withdrawal of military bases

17. Until September 1995, the United States of America maintained a naval air station in Bermuda; its evacuation released land amounting to 10 per cent of the Territory's total area. Information on activities related to the withdrawal of the military bases during 1993 and 1994 is contained in previous working papers on the Territory prepared by the Secretariat (A/AC.109/1189, paras. 31-35, and A/AC.109/2020, paras. 10-11). In October 1995, Grant Gibbons, the then Minister of Finance, announced the closure of military bases and/or installations in the Territory, namely, the United States Naval Air Station at St. David's, the United States Naval Annex and Tudor Hill facility at Southampton and the former Canadian Forces Station at St. Daniel's Head. He warned that the withdrawal of those bases would result in an annual loss by the Territory of approximately US$ 50 million in the foreign currency earnings that had originated

from their operation. The Minister further unveiled a long-term plan for the utilization of the land transferred to the jurisdiction of the territorial Government as a result of the closures. Implementation of the plan, which includes various development projects for commercial, recreational/tourist and educational purposes, could create 3,000 additional jobs in Bermuda. The Bermuda Land Development Company, a quasi-government agency which was set up in 1996 after the British, the United States and Canadian military forces pulled out of their respective bases, is managing the projects (see A/AC.109/2041, paras. 8-9). The cost of refurbishing the former United States base is being borne by the Government through the Bermuda Land Development Company.

18. The closure of the United States military bases has left a significant environmental problem which relates to asbestos that was used in buildings and other facilities of the bases. Asbestos is being removed from the buildings that are being demolished; it is reported that Bermuda is holding some 525, 20-ton shipping containers full of asbestos (see also para. 81 below).

19. The land of the former base also poses a problem of soil and groundwater pollution. The environmental situation is unique, with an extremely fragile marine environment surrounding the island and some of the most northerly coral reef areas. Land is obviously scarce, freshwater resources are very limited and there is no storage capacity for hazardous waste disposal. In addition, unless they are removed, industrial waste and raw sewage that were disposed of in Bassetts' Cave will pose a threat over time to parts of the Territory's water system. Underground and above-ground petroleum storage tanks — many in poor condition — are leaking into surrounding soil and groundwater. Landfills left behind are also causing environmental problems.

20. While the United Kingdom and Canada have contributed to cleaning up the sites of their former bases, Bermuda's previous Government tried, without success, to get the United States to pay to clean the polluted sections of its former bases. The Government had asked for $55 million, but was reportedly advised that the pollution did not pose a known imminent and substantial danger to human health and safety.

21. According to media reports, the new Government of Bermuda resumed communication with the Government of the United States regarding the issue in 1999. The Territorial Government invited United States lawmakers to Bermuda for a first-hand look at the pollution problems faced at the old United States naval installations in the hope that the United States would accept its responsibility to clean up its former bases. In November 1999, a senior delegation from the British Foreign Office and the British Embassy in Washington, D.C., also visited the former military bases to view the situation in practical terms before pursuing the issue with the United States Government. According to the media, the British Government supports the territorial Government's position that the United States is responsible for the clean-up of the pollution left behind on the military bases.[7]

IV. Economic conditions

A. General

22. Bermuda has no natural resources, in the conventional sense, upon which to build a viable economy. It has historically capitalized on its location and scenic beauty and has developed a renowned tourist industry, which continues to be an important component of the territorial economy. The international business industry also makes an important contribution to the economy of Bermuda, bringing in large amounts of foreign currency. Other earnings are derived from shipping, investment income and other goods and services.

23. Manufacturing and agriculture exist on a limited scale and therefore contribute little to the economy of Bermuda. The local manufacturing sector includes printing, fish processing and ship repair, as well as the manufacture of paint. In recent years, there have been attempts to attract high-technology companies to Bermuda in an effort to develop in the Territory a centre for information technology. Agricultural activity is constrained by the small amount of land available for farming.

24. As a policy, successive budgets have included increases in a variety of taxes and fees for government services; a capital gains tax on property sales by non-Bermudians was introduced in 1995. There is no income tax and customs duties account for about 35 per cent of government revenues. Other significant revenue sources are company fees, land and stamp taxes, employment tax, a hospital levy, vehicle licence fees

and taxes on hotel occupancy, passenger departures and cigarette sales. On the expenditure side, recent years have seen an increasing stress on improving the competitiveness of the tourism sector and enhancing the skills of Bermudians.

25. Bermuda's openness to the world economy and strong links with the United States economy largely determine its pattern of economic growth. The resumption of economic growth in the mid-1990s was owing to the international business sector, as tourism has been in decline, hit by competition from other less expensive destinations. Bermuda's heavy dependence on imports, overwhelmingly from the United States, and the currency's peg to the dollar means that inflation tends to follow the United States pattern.[2]

26. According to the Government of Bermuda,[8] in 1999, Bermuda's economy slowed from its rapid expansion since 1995. The gross domestic product (GDP) in 1999 grew at an estimated 3.7 per cent (1.5 per cent in constant dollars, after removing the effect of inflation) to reach $2,457.1 million. After several years of low and stable rates of inflation, prices began to rise more quickly in 1999. Consumer expenditure rose to $1,583.2 million, an annualized increase of 6.0 per cent. For the first time since 1995, in May 2000 inflation rose to 3 per cent.

27. Export earnings were not as strong a component of economic growth as in previous years. Expenditures by international businesses grew by less than 1 per cent to $757.4 million in 1998/99. Tourism continued to struggle in 1999. The contribution to growth in GDP by both tourism and international business were negative, once expenditure was adjusted for inflation.

28. There was a strong increase in imports during the fiscal year 1998/99. Imports surged by 8.8 per cent to $1,246.6 million. Trade data shows that imports of machinery and materials were particularly strong reflecting strong growth in the construction industry.

B. Public finance

29. The PLP Government's first budget, presented in February 1999, was designed to implement its plan of social and economic reconstruction. The budget for 2000-2001, which was presented on 18 February 2000 by the Minister of Finance of Bermuda, is committed to the advancement of the people of the Territory. Bermuda receives no financial assistance from Britain. The Government will provide extensive new funding for education and training, continued support for Bermuda's health-care system and funds to address the housing problem. Financial support will also be provided for the administration of justice, law and order; for open spaces in crowded neighbourhoods and solutions to traffic congestion.[9]

30. The most controversial political and social aspect of the budget is the attempt by the PLP Government to improve the racial representation of black Bermudians in higher levels of corporate Bermuda. In March 2000, it introduced a complex reporting and penalty procedure to encourage the employers to improve the racial make-up of the workforce to statistically resemble that of the general population.[10]

31. The revised revenue for 1999/00 is expected to exceed the original estimate by some $18.3 million to total $569.9 million,[9] and actual expenditures are anticipated to reach some $515.2 million. The estimated revenue for the financial year 2000/01, as presented by the Minister of Finance, is $591.83 million, and the total expenditure on current accounts for the fiscal year is anticipated at $528.67 million, that is a 3.465 per cent increase over the estimated figures for 1999/00. The additional revenues are expected to come principally from payroll tax, stamp duties, company fees and customs duties, land tax and the passenger tax. These will also offset the forecasted reduction in revenues from the Post Office, the sale of land to non-Bermudians, bus and ferry fares and the hotel occupancy tax.

32. The bulk of the new cash would go to education and training, housing, health and social services, with somewhat lesser amounts going to law and order, environment and international initiatives. The Government will also spend additional sums to promote tourism.

33. The current balance-of-payments account showed a surplus of $242 million in 1998 and a further substantial surplus is expected for 1999. Government borrowing remained very modest and is anticipated to be at 7.0 per cent of GDP at 31 March 2000.

34. The PLP Government imposed no new taxes in its 1999-2000 or 2000-2001 budgets. In order to maintain the Government's fiscal position, successive budgets have increased a variety of taxes and fees for government services. In the 2000-2001 budget, PLP adjusted almost all existing taxes upwards to pay for

the burgeoning cost of its social programmes. A review of the tax system by consultants commissioned by and completed under the former UBP Government, has been sent back to them for further work.[11]

C. International financial arena

35. Britain's membership in the European Union has raised questions for Bermuda, since the European Union Code of Business Conduct applies to all its member States. However, in the view of the Minister of Finance, the manner in which the Code may be applied to overseas dependent territories of such member States has not yet been clarified. The review and reassessment of the economic relationships between the European Union and Overseas Territories was due to be completed in February 2000, but current arrangements are likely to remain in place for another year.

36. Britain's White Paper on its relationships with its Overseas Territories promised a financial regulatory review of those territories in order to ensure that they implement and adhere to world standards of financial regulation. Bermuda's Ministry of Finance is a member of a Steering Committee that has worked to determine the international standards by which the financial sectors of the economies of the Territories will be judged. That Committee has selected the consulting firm KPMG to conduct the regulatory review that is to be completed by June 2000.

37. Britain has confirmed its support for the G-8 initiative to pursue tax evaders and money-launderers through a coordinated international effort and Bermuda is discussing the matter with the United Kingdom. While it does not support the presence in Bermuda of criminal proceeds, or any facility to launder money, Bermuda respects the privacy of any individual who wishes to conduct legitimate business in its jurisdiction.[9]

38. According to the Minister of Finance, Bermuda was asked by the Organisation for Economic Cooperation and Development (OECD), to respond to suggestions that it is a tax haven or a harmful tax jurisdiction because of the perception that its tax laws encourage mobile capital to leave established economies for purely tax reasons. A delegation comprising Ministry of Finance staff, the Attorney General and the Minister of Finance, engaged in direct discussions with the OECD Forum established to examine these matters. This resulted in an invitation to continue discussions that would lead to the omission of Bermuda's name from a list of tax havens or harmful tax jurisdictions currently being prepared by OECD.

39. The Financial Stability Forum, composed of G-8 and non-G-8 countries, as part of the move to reform the international financial architecture, is assuming the job of reviewing the role of offshore centres and will examine Bermuda's place in the world. The Bermuda Monetary Authority and the Ministry of Finance have both held talks with representatives of the Forum and will continue these exchanges. In the view of the Minister of Finance, Bermuda must demonstrate aggressively to the world its integrity and high standards as a financial centre and differentiate itself from jurisdictions of questionable standing.[9]

D. Banking

40. Foreign banks are not allowed to operate in Bermuda; as a result, local banks benefit from a quasi-monopoly in handling lucrative international business operations for offshore clients. The Bank of Bermuda, founded in 1889, is ranked as the world's 684th largest bank and the Bank of Butterfield is ranked 795th. A third bank, Bermuda Commercial Bank, founded in 1969 and the only bank that is owned by Bermudians of African ancestry, was acquired in 1993 by First Curação International Bank based in the Netherlands Antilles. There is no central bank in Bermuda. Instead, the Bermuda Monetary Authority is the regulatory authority of banks and also of the trust companies.[3]

41. Banks in Bermuda must by law be at least 60 per cent beneficially owned by Bermudians.[3] Foreigners and foreign corporations are restricted from owning more than 40 per cent in local companies doing business within the Territory.[2]

E. International business

42. Bermuda remains one of the world's leading offshore financial and business centres, a leading world captive insurance centre and a favoured venue for specialist companies operating as financial reinsurers covering international companies against the cost of legal awards.

43. The foundations for Bermuda's insurance industry[12] were laid shortly after the Second World

War. United States corporations realized they could save money with a paper device known as a captive insurance company, which enables a corporation to effectively sell itself insurance and deduct the premiums from its taxable income. Many United States corporations began registering their captives in Bermuda and today, there are reputedly some 1,400 captives in Bermuda, more than anywhere else in the world.

44. According to an annual survey of the impact of international companies on the economy of Bermuda, Professor Archer of the University of Surrey found that in 1998:

(a) There were 10,938 international companies registered in Bermuda at the end of December 1998, an increase of 969 companies, or 9.7 per cent over 1997;

(b) International companies spent $759.3 million, an increase of $16 million over 1997;

(c) There were 355 international companies with a physical presence in Bermuda; they spent $601.8 million in the Territory, representing 79 per cent of foreign currency earnings of all international companies, even though they comprise only 3.2 per cent of the total number of companies on the international register;

(d) These companies directly employed 2,872 people in 1998: 1,594 Bermudians and 1,278 non-Bermudians;

(e) Over 20,000 business travellers, with some 12,000 friends and relatives, visited the international companies and contributed $24.8 million to the Bermudian economy.

45. Data from the Registrar of Companies show that the number of international entities on the register at the end of September 1999 had increased by 596 (5.6 per cent) over the preceding 12 months, to 11,149.

46. The Registrar of Companies also shows that the Bermuda insurance industry continued to expand in 1998. Gross premiums increased by 5 per cent from $25.4 billion in 1997 to $26.6 billion in 1998. Net premiums increased by 4 per cent from $20.4 billion to $21.2 billion over the same time period. Total insurance assets were 4 per cent higher at $116.4 billion and capital surplus climbed 6 per cent to $51.2 billion. Some 96 new insurance companies were added to the register for international insurers and, after adjusting for removals during the year, the total on the registry rose to 1,493.[13]

47. Bermuda maintains a substantial shipping register, which ranks as the fifth largest in the world, and now outstrips tourism as a foreign-exchange earner and contributor to government revenues.

48. The 27-year-old Bermuda Stock Exchange continues to promote itself as an offshore jurisdiction for listing companies. At the end of 1998 it had 251 listed securities, including 170 funds, 13 trading members and 4 listing sponsors. Total trading volume was in excess of $27 billion. It is in the process of switching to a new electronic trading system.[14]

F. Tourism

49. Tourism continues to constitute a major sector of the territorial economy and a principal source of foreign exchange, accounting for just under 50 per cent of Bermuda's overseas earnings. However, it has undergone a steady decline since the 1980s. Bermuda has an upmarket image and the absence of casinos and gambling makes it less attractive to the mass market. 1999 was a disappointing year for tourism, with a 1.8 per cent decline in tourist arrivals. Visitor expenditures increased by $8.9 million in fiscal year 1998/99, an increase of 1.9 per cent which, after adjusting for inflation, actually signifies a drop of 0.1 per cent. Measured in constant dollars per capita, tourist expenditures fell by 21.3 per cent between 1990/91 and 1998/99. The contribution made by tourism to GDP fell from 29.3 per cent in 1990/91 to 19.9 per cent in 1998/99.[15]

50. Hotels reported 3.6 per cent fewer guests in 1998 and the number of nights fell by 1.7 per cent. The decline is attributed largely to increased competition from cheaper destinations. About 80 per cent of stop-over visitors come from the United States, making Bermuda vulnerable to economic recession in that country. Canada and the United Kingdom account for almost all other arrivals.[15]

51. As regards Bermuda's tourist industry, Professor Archer's annual survey (see para. 44) found that, in 1998, visitors spent $486.8 million; cruise ship passengers accounted for $42.8 million of this expenditure; tourism created direct employment of 6,160 jobs; and public sector revenue generated was $120 million.[16]

52. The Government has pledged to revitalize the tourist sector, and has prepared a five-year strategy with the help of consultants. With the cooperation and involvement of the private sector, efforts are being made to increase air arrivals. Delta Air Lines, Trans World Airlines (TWA) and US Airways have scheduled additional and more convenient direct flights from the United States. Avoiding the mega-cruise ships in its efforts to maintain its place as a single destination special market, a marketing strategy has been designed to boost cruise passengers numbers.[17]

53. With the closure of one of the Territory's largest hotels in November 1999, the total number of tourist rooms fell below 3,300. Discussions with developers regarding new or closed properties should lead to commencement of new projects in 2000. Several major hotels have embarked on major renovations to upgrade their products. With new or refurbished hotels and resorts, better training for hotel staff and more attractions to existing resorts, there is optimism that tourism will be boosted.

G. Communications and transport

54. According to professional analysts, the transport and telecommunications infrastructure is of a high standard, which reflects the high income level and requirements of the main economic activities. The Territory continues to be an attractive location for innovative international telecommunications firms.[14]

55. The international telecommunications system was recently liberalized. Since May 1997, the long established monopoly of Cable and Wireless has been challenged by the newly licensed TeleBermuda International. The Bermuda Telephone Company is the main provider of local calls. In 1998, a new competitor, Quantum Communications, began providing data services but operations were suspended in 1999. The owners, Belco Holdings Ltd., the monopoly electrical utility, and Cable & Wireless (which owns a minority interest) have put the company up for sale. A cellular telephone service provider, Bermuda Digital Co. Ltd., is scheduled to begin operations in 2000.

56. The Bermuda Broadcasting Company operates two commercial television stations and four radio stations. A third television channel and three radio stations are operated by the De Fontes Broadcasting Company. *The Royal Gazette* is the only daily newspaper and there are two weekend newspapers, one of which also publishes a mid-week edition.

57. Airport services are reported to have improved considerably in recent years. There are regular and well-established services between Bermuda and the United States and to the United Kingdom. Hamilton serves as the main port in the Territory and supports container facilities, whereas port services are provided at St. George's and Ireland Island, a free port. As noted above, additional routes and flights have been scheduled by major airlines from the United States.

58. Bermuda has a network of about 200 km of public roads and another 400 km of private roads that can support car, lorry and tanker traffic. In 1998 there were 51,258 registered road vehicles, including 22,000 private cars. Bermudian households are limited to one passenger vehicle each, in order to limit congestion.[11]

59. Bermuda is totally dependent on imported oil energy. Its electricity capacity is thermal-diesel or gas-turbine. Electricity production and distribution are the responsibility of the Bermuda Electric Light Company.

V. Social conditions

A. General

60. During the last fiscal year, 1999-00, the Government continued to push through its social reform package. It sought to meet the requirements outlined in the British White Paper and successfully abolished capital and corporal punishment. It also appointed an Attorney General and a Director of Public Prosecutions; strengthened the Accountant General's internal audit section; implemented the "Mowbray Report" recommendations on police service pay (increases); addressed night patrol needs in prisons; and transferred child-care and opportunity workshops to the Ministry of Health and Family Services. In addition, it provided for an education officer for the Human Rights Commission, extended working hours at the Bermuda Library and provided additional support for the arts.[9]

61. In presenting its 2000-2001 budget, the Government of Bermuda has placed emphasis on quality-of-life issues, including education and training, and the health-care system.[9] Other main legislative priorities remain the provision of more affordable

housing and the elimination of racial discrimination in the workplace.[18]

B. Labour

62. Preliminary results from the 1999 employment survey show that the number of filled jobs in August 1999 reached 37,044, an increase of 1,721 jobs or 4.9 per cent over the same month in 1998. Comparatively, only 27 filled jobs were recorded between the 1997 and 1998 employment surveys. Increases were recorded in business services and international companies, while hotels and the retail sector registered a further drop in the number of jobs filled.[9]

63. Bermudians accounted for 1,033, or 60 per cent, of the increase in filled jobs. This represents turnaround from the 1998 employment survey, which had showed a decrease in the positions filled by Bermudians, but an increase in those held by non-Bermudians. The nationality split of the workforce has become a political issue in recent years and there are fears that too many non-Bermudians are getting employment opportunities ahead of Bermudian nationals.[19] The Government has embarked on a lengthy and comprehensive review of the work permit policies. For example, employers are required to apply for work permits for non-Bermudians. According to preliminary estimates for 1999, of a total of 37,044 employed non-Bermudians (including non-Bermudian spouses of Bermudians) accounted for some 8,958 or 24 per cent of the job market. Figures for 1998 show that 2.6 per cent more men were employed than women.[20] Overall, women outnumber men in the community services, education, financial sector, retail and wholesale trades. Men outnumber women in the transport sector. The average household income in 1999 was estimated to be $69,500,[3] one of the highest in the world on a per capita basis.

64. The Bermuda Government is the largest single employer, with 13 per cent of the entire workforce working directly or indirectly for it. The majority of employees in Bermuda work for a relatively small number of businesses. Bermudians most affected by the downsizing are those without formal academic or professional qualification and who, as a result, become unemployable. Some government financial assistance is given to pensioners, single parent families, the temporarily disabled, the permanently mentally or physically handicapped and the unemployed or underemployed who do not have sufficient income to live on. There is also a housing allowance programme for Bermudians who face temporary rent payment difficulties.

65. Bermuda has a compulsory contributory pension plan administered by the Government for all employees of private sector employers, with employers and individual employees each paying 50 per cent of the premium. Non-Bermudian employees are also required to be covered and are fully entitled to whatever benefits they accrue under the plan's provisions. Currently it provides a maximum of $755 per month to fully eligible beneficiaries.[3]

C. Race, human rights and gender

Race

66. In 1993, the Government created a new Ministry of Human Affairs to deal with racial discrimination in the community and to work with all concerned towards its elimination (see A/AC.109/1189, para. 75). The Commission for Unity and Racial Equality Act, 1994 was enacted by the legislature and the Commission was established in 1995. In 1995, the Commission released a report which highlighted the problems that stemmed from the continued existence of institutionalized racism and racism in the workplace. The Commission has made several recommendations for the establishment of a code of practice for the elimination of racial and gender discrimination in employment. Detailed information regarding this was outlined in document A/AC.109/2109, paras. 49 and 50. (See also A/AC.109/1999/3, paras. 55-58.)

67. It was reported in the press that the PLP Government's efforts to amend the Act to make the code of practice legally binding failed in the Senate. In June 1999, the Commission employed Research Innovations Ltd. to carry out a survey of organizations with 10 or more employees, in order to get an indication of the extent to which the business community was voluntarily complying with the guidelines of the code of practice. The survey of 547 organizations, accounting for 80 per cent of the workforce, showed that compliance with the code was minimal.[21] The Government claims that the introduction of equal opportunity legislation to the workplace in Bermuda would help, rather than hinder,

international business. Businesses assert that the work permit restrictions and proposals for monitoring racism in the workplace were too bureaucratic and intrusive.

Human rights

68. Bermuda is covered by the following human rights conventions, pursuant to their accession by the United Kingdom:

(a) Convention on the Prevention and Punishment of the Crime of Genocide, acceded to by the United Kingdom on 30 January 1970;

(b) International Covenant on Economic, Social and Cultural Rights, signed and ratified by the United Kingdom on 16 September 1968 and 20 May 1976, respectively;

(c) International Covenant on Civil and Political Rights, signed and ratified by the United Kingdom on 16 September 1968 and 20 May 1976, respectively;

(d) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed and ratified by the United Kingdom on 15 March 1985 and 8 December 1988, respectively; Bermuda was included on 9 December 1992;

(e) Convention on the Rights of the Child, signed and ratified by the United Kingdom on 19 April 1990 and 16 December 1991, respectively;

(f) International Convention on the Elimination of All Forms of Racial Discrimination, signed and ratified by the United Kingdom on 11 October 1966 and 7 March 1969, respectively; it covers Territories under the territorial sovereignty of the United Kingdom;

(g) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, signed by the United Kingdom on 31 March 1999.

69. In a statement made on 3 April 2000, Baroness Scotland of the United Kingdom reiterated that Territories that choose to remain British must abide by the same standards of human rights and good governance that Britain demands of itself. Everyone should enjoy the same protections in law; there should be no discrimination between peoples on the basis of age, colour, gender or sexual orientation. She noted the decision of the Parliament of Bermuda to abolish the death penalty and judicial corporal punishment and applauded the Government of Bermuda for its leadership on the issue. She cited the Bermuda Human Rights Commission's review of public policies and procedures in the context of international human rights obligations as an example for other Territories to emulate.

70. Investigations by the Bermuda Human Rights Commission have nearly doubled in the past four years, according to a press report. In 1998, after receiving 989 complaints, the Commission launched 142 investigations which represent a 77 per cent increase from 1994, when 80 investigations were carried out. Thirty-five investigations resulted from complaints of pregnancy discrimination, 16 were based on gender-related complaints and 21 related to complaints of sexual harassment. The Commission also investigated 18 complaints brought on racial grounds, 9 of them alleging racial incitement and the other 9 relating to place of origin. Bermudians' increasing awareness of their rights and the determination to protect those rights may be responsible for the increasing number of complaints.[22]

Gender issues

71. Bermuda is not a signatory to the Convention on the Elimination of All Forms of Discrimination against Women or the United Nations Declaration on the Elimination of Violence against Women, which was ratified by the United Kingdom in 1986. Once ratified by the United Kingdom, United Nations conventions can be applied to Bermuda upon request; Bermuda is not among the three British Dependent Territories that requested that the Convention be applied to them. Amnesty International is trying to collect at least 10,000 signatures to a petition in Bermuda, to be handed over to the Premier, and hopes to get support from businesses and charitable organizations for its campaign.

D. Public health

72. The Ministry of Health and Social Services continues to be responsible for all aspects relating to public health. Medical care is provided by private practitioners and three government health clinics. Fees are charged for hospital care, and medical insurance is compulsory for all workers. A hospital levy covers the cost of services rendered by the hospitals to children

under 16 years of age. Indigent persons over 65 years of age pay 20 per cent of hospital costs.

73. The Government wants its health-care system to provide quality care as efficiently as possible and is committed to improving health care. Accordingly, in the 2000-2001 budget, it has allocated $112.2 million, including $4.3 million in new money to the Ministry of Health and to the hospitals. This will include additional amounts for an in-patient subsidy, increased operating costs, an in-patient detoxification unit and a resident psychiatric doctor to support childcare and to work with substance abuse.[9] As the population becomes older, the demand for care for the elderly grows. In the last Parliamentary session, the Government passed a new Nursing Homes Act, but the regulations that would enforce the legislation have still to be made public.[23]

74. The Government is paving the way for radical reforms in the health insurance system to correct perceived imbalances. It is developing a national policy on acquired immunodeficiency syndrome (AIDS). Accordingly, the Caribbean Epidemiology Centre has been evaluating human immunodeficiency virus (HIV)/AIDS surveillance systems over the past three years in certain countries in the Caribbean, including Bermuda. Under the best of circumstances, there is an 8 to 10 per cent incidence of under-reporting of HIV/AIDS and in the worst cases, the percentage increases to between 75 and 89 per cent.

75. There has been a resurgence of concern over the return and spread of dengue fever, which had been eradicated from Bermuda in the 1940s. Mosquitoes are said to be flourishing in the central parishes and the Ministry of Health is seeking the public's help in destroying their habitat. According to the Caribbean Epidemiology Centre, the increase in the possibility of explosive outbreaks in the Caribbean region could have consequences for the local population and for the tourism industry.[24]

E. Housing and construction

76. Residential unit construction fell in the first three quarters of 1999, compared to the same period in 1998. The number of units built fell from 157 to 139, probably owing to the high cost of construction of residential units.

77. The Government is committed to solving the housing shortage in Bermuda, which some argue is a crisis of affordability, rather than availability. The Bermuda Housing Corporation has implemented various programmes to provide for the housing needs of the population and will receive an increase in its grant of $461,000 towards the operation of its "100 houses project". This will be used to help finance the cost of renovating and constructing housing units until rental income begins to flow in to replace government funding, and to aid those tenants who are unable to afford market level rents.[24] It is building new units and will increase its housing stock by 450 units through three separate programmes. However, building new houses takes time and construction in Bermuda is expensive. Besides the Government's use of the funds raised from land taxes, actions like incentives for landlords, lowering of housing subsidies, renovating existing properties and promoting home ownership, will together contribute to alleviating the housing shortage.

78. Commercial private sector construction dominated activity in the building industry. The construction industry expanded rapidly, with an estimated $106.4 million in total value of work in the first three quarters of 1999, representing an increase of 13.8 per cent over 1998.[9]

F. Environment

79. The PLP Government has passed a new green law, the 1999 Clean Air Amendment Act, which will ensure tougher emission standards and seek to lessen pollution from vehicle spray shops, dry-cleaners and firms using gas and diesel pumps. The Environmental Authority is responsible for ensuring compliance.

80. As a result of environmental efforts and policies, the Bermuda cedars have made a comeback after blight destroyed them in the 1950s, the native Cahow bird is no longer threatened with extinction and the bluebird population has increased. The yellow-crowned night heron has been successfully reintroduced and turtle conservation is under way. Reef fish populations have increased, owing to the ban on fish pots and the implementation of a strict fishing policy. While agricultural land, nature reserves, other open spaces and rural areas have declined in total acreage, the number of national parks, recreational and golf course areas and woodland reserves has been growing steadily

in acreage and now account for 51 per cent of Bermuda's total land area.[3] However, Bermuda has yet to improve its waste-management facilities and programme, which has come under criticism.[25]

81. The major environmental concern, however, remains the thousands of tons of asbestos left behind by departing military contingents. The asbestos dust was "safely" packaged, but could not be dumped at sea or buried underground. Some 525 containers of asbestos at the Bailey's Bay quarry and at the old United States Navy base at South Side, St. David's, have been constantly monitored by officials from the Environment Ministry. The Government has high hopes that the United States Government will provide financial assistance to clean up the asbestos and clear the ground of oil and heavy metals before the land can be redeveloped (see para. 18 above).

G. Drugs, criminal justice system and police

82. According to press reports, there are few statistics on the extent to which Bermuda has been affected by the drug problem. The National Drug Commission hopes that the soon-to-be released figures from a 1999 survey will provide a clearer picture. The Governor has called for a new look at legalizing cannabis, but the Commission has pronounced itself against its legalization and a full debate is expected on the issue. Heroin and cocaine use is also on the rise and there has been a marked rise in drug-related violent crime, owing to a diminished supply on the streets. Concern is also mounting over the health risks associated with the party drug "ecstasy", which, according to an unofficial report, is being used widely across the island, and the Commission is launching a prevention programme against its use.

83. Media reports indicate that the crime rate has increased more than 10 per cent over 1999, with noticeable increases in firearms-related offences, violent crimes and sexual assault cases. A total of 336 violent crimes were reported in 1999, compared with 296 in 1998. The Government plans to hire needed additional police officers from overseas.

H. Educational conditions

84. Education in Bermuda is compulsory for all children from 5 to 16 years of age, and is free for students in the pre-school, junior, special and secondary government schools administered by Bermuda's Ministry of Education.

85. Bermuda has a Public Schools' Code of Conduct embodied in the Education Act 1996, which is applied to all government schools and has its equivalent enforced in private schools.

86. There are no degree-conferring universities, and no business or law schools in Bermuda. The Government awards a number of scholarships each year to young Bermudians accepted at leading universities in the United States, Canada or the United Kingdom. Scholarships are also awarded by local banks, principal law firms and Bermuda-based international companies, to obtain university degrees or to enter the civil service, banking, business, insurance and legal firms in the private sector. Under the Bermuda Government's National Education Guarantee Scheme, begun in 1994, no Bermudian student with university potential is denied an opportunity for further education owing to a lack of funds. The Government provides education loans for university attendance with a generous pay-back period.[26]

87. During the current fiscal year, the budget of the Education Ministry is to increase by $885,000, to $85.9 million. The Department of Education will get $68,958,000 of these funds towards the running of the curriculum and schools. The balance of the budget will be used by the Ministry for scholarships, construction and capital projects, wheelchair accessibility, school safety review, library, administration and promotion and sponsorship of educational programme expenses, etc.

VI. Future political status of the Territory

A. Position of the administering Power

88. On 4 February 1998, the Secretary for Foreign and Commonwealth Affairs of the United Kingdom, Robin Cook, in a speech before the Dependent Territories Association in London, announced that in his first months as Foreign Secretary he had set in

motion a review of the United Kingdom's stewardship of the Dependent Territories. A summary of the principles and key issues contained in the proposal to modernize the United Kingdom's relations with the Territories is contained in document A/AC.109/2102, paragraphs 70 to 81.

89. In March 1999, the Government of the United Kingdom presented a White Paper to its Parliament, entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". The text of the White Paper is set out in the annex to document A/AC.109/1999/1. Key recommendations are noted in paragraph 89 of document A/AC.109/1999/3.

90. In a speech at the Conference at Wilton Park on "Overseas Territories" on 3 April 2000, Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Baroness Scotland, stressed the principles of partnership on which Britain wished to build its relationship with the Overseas Territories. These were: self-determination; responsibilities of both partners; the exercise of democratic practices in the Territories to allow their people the greatest degree of control over their own lives; and continuance of British assistance to those Overseas Territories that needed it.

91. Because it is financially independent, Bermuda does not need development assistance from Britain. In fact, in speaking about Bermuda, Baroness Scotland said that the effectiveness of the policies followed there for some years was reflected in the Territory's flourishing, forward-looking, enterprise-based economy.[27]

92. In addressing the Fourth Committee of the General Assembly on 6 October 1999, the representative of the United Kingdom said that her Government had made further progress in its efforts to transform its relationship with its Overseas Territories into a fully modern partnership, based on the four fundamental principles of self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible, and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. Among the measures being taken was the decision to offer British citizenship and the right of abode to those people of the Overseas Territories who did not already enjoy it, thus meeting a long-standing request of the peoples of the Territories (see A/C.4/54/SR.5, paras. 91-92).

B. Position of the territorial Government

Independence referendum

93. It will be recalled that, on 24 March 1995, the territorial House of Assembly adopted the Independence Referendum Act. On 5 April 1995, the bill was approved by the Senate. The referendum was held on 16 August 1995. According to the administering Power, 58.8 per cent of registered voters participated in the referendum, the results of which were as follows: 25.6 per cent voted in favour of independence; 73.7 per cent voted against; and 0.7 per cent abstained. Following the referendum, the Premier of Bermuda, John Swan resigned and was replaced by former Finance Minister David Saul (see A/AC.109/2020, paras. 31-40, and A/AC.109/2041, paras. 35-37).

94. In September 1995, David Saul, then Premier of Bermuda, stated that "independence was water under the bridge" and that the "issue would not be raised again during the life of the current parliamentary session".[28]

95. However, with the publication of the White Paper, independence resurfaced as an issue, although, at the time of writing of the present report, there has been no official reaction to the paper as such. According to press reports, the initial reaction of the PLP Government when the White Paper was first released was positive,[29] whereas the opposition leader's reaction was to call for a referendum.[30] The White Paper has been debated and discussed in the public media and the press. According to a media poll conducted in 1999, a majority favoured receiving British passports. According to others, the White Paper is considered "divisive". There is some concern that if Bermudians do not choose to accept what is being offered the United Kingdom will effect the changes it wants anyway.

96. The current Prime Minister and leader of the PLP, Jennifer Smith, has said that the party will continue to advocate independence from the United Kingdom, but that any such move would be a matter for another general election.[31]

C. Action by the General Assembly

97. On 6 December 1999, the General Assembly adopted without a vote resolution 54/90 B, section III of which concerns Bermuda.

Notes

[1] The information contained in the present working paper has been derived from published information.

[2] The Economist Intelligence Unit, Country Profile — Bermuda 2000/2001.

[3] Web site: Bermuda-online.org 3 May 2000.

[4] *The Royal Gazette*, 30 August 1999.

[5] British Overseas Territory White Paper, Appendix One.

[6] The Economist Intelligence Unit first quarter 1998, Country Profile on Bermuda.

[7] *The Royal Gazette*, 4 and 12 November 1999.

[8] Bermuda 1999 Economic Review, February 2000.

[9] Budget statement 2000-2001, Minister of Finance, 18 February 2000.

[10] The Economist Intelligence Unit, Country Profile on Bermuda, 27 March 2000.

[11] Ibid., 9 April 2000.

[12] *The New York Times*, 28 April 1999.

[13] Economic Review 1999, Government of Bermuda, Ministry of Finance.

[14] The Economist Intelligence Unit first quarter 1999, Country Profile on Bermuda.

[15] Ibid., May 2000.

[16] Economic Review 2000, Government of Bermuda, Ministry of Finance.

[17] *The Royal Gazette*, 5 April 2000, 26 March 2000.

[18] The Economist Intelligence Unit, Country Profile on Bermuda, 28 December 1999.

[19] Ibid., 10 May 2000.

[20] Bermuda 1999 Economic Review, Government of Bermuda, Ministry of Finance, February 2000.

[21] *Bermuda Sun*, 6 April 2000.

[22] *The Royal Gazette*, 2 September 1999.

[23] Ibid., 11 January 2000.

[24] Comtex Scientific Corporation, 23 November 1999, Newsedge.

[25] *The Royal Gazette*, 16 December 1999.

[26] Ibid., 5 May 1998.

[27] United Kingdom, web site: www.fco.gov.uk.

[28] *The Royal Gazette*, 30 September 1998.

[29] Reuters, 17 March 1999.

[30] *The Royal Gazette*, 18 March 1999.

[31] The Economist Intelligence Unit, Country Profile on Bermuda, 10 May 2000.